IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

WA.No. 2429 of 2007

AGAINST THE JUDGEMENT IN WPC.23610/2007 Dated 07/09/2007
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APPELLANT/PETITIONER

BALAKRISHNA PILLAI,
AGED 78 YEARS,
S/O.RAMAN PILLAI, KADAKATHU HOUSE,
KUDASSANAD P.O., PALAMEL VILLAGE,
MAVELIKKARA TALUK.

BY ADV. SRI.G.ANANTHANARAYANAN

RESPONDENTS/RESPONDENTS
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1. THE ADDITIONAL DISTRICT MAGISTRATE,
ALAPPUZHA.

2. THE ASSISTANT EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
SUB DIVISION, CHARUMOOD.

3. BALACHANDRAN PILLAI,
KADAKATHU HOUSE
KUDASSANAD P.O., PALAMEL VILLAGE,
MAVELIKKARA TALUK.

4. THANKACHAN MATHAI,
PADINJARE NAMPOZHIL, KUDASSANAD P.O.,
PALAMEL VILLAGE, MAVELIKKARA TALUK.

5. THANKAMANI AMMA,
W/O.CHANDRASEKHARA KURUP,
LEKHALAYAM, KUDASSANAD P.O.,
PALAMEL VILLAGE, MAVELIKKARA TALUK.

R2 BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB
R1 BY GOVERNMENT PLEADER SMT.K.MEERA

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.2429 of 2007

Dated, this the 10th day of October, 2007

JUDGMENT

K.T.Sankaran, J.

Though this matter is posted for admission, by consent of the learned counsel appearing for the parties, the same is taken up for final disposal.

2. Petitioner filed the writ petition challenging Ext.P6 order passed by the Additional District Magistrate, Alappuzha. An electricity line had to be drawn to the residence of the 5th respondent. The proposed line would cross the property of the petitioner. There was objection from the side of the petitioner. The matter was referred to the District Magistrate under the provisions of the Indian Telegraph Act. Petitioner raised objections before the Additional District Magistrate and contended that the electricity line can be drawn through other alternate routes which are also suggested in Ext.P1 objection. Petitioner also filed an application dated 23.5.2007 (Ext.P3) requesting that a spot inspection may be made to ascertain whether the objections raised by the petitioner are sustainable or not. The Additional District Magistrate disposed of the matter as per Ext.P6 order approving the proposal. However, none of the contentions raised by the petitioner has been dealt with in Ext.P6 order. It is not clear whether the request made by the petitioner for a spot inspection was allowed or not.

3. In view of the non-consideration of the objections raised by the petitioner, Ext.P6 order is liable to be quashed on the ground of non-application of mind. We are of the view that the learned Single Judge was not justified in dismissing the writ petition.

4. Therefore, the judgment of the learned Single Judge is set aside and Ext.P6 order is quashed. The Additional District Magistrate shall dispose of the matter afresh after hearing the affected parties and considering the objections raised by them in accordance with law.

Writ appeal is allowed as above.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns